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FISCAL IMPACT STATEMENT

LS 6527

BILL NUMBER: HB 1208

NOTE PREPARED: Dec 30, 2008

BILL AMENDED:

SUBJECT: Health, Mental Health, and Addiction Matters.

FIRST AUTHOR: Rep. Brown C

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ GENERAL
☒ DEDICATED
☒ FEDERAL

IMPACT: State

Summary of Legislation: This bill allows a Department of Correction (DOC) offender to be prescribed or administered mental health drugs that are available to a Medicaid recipient under specified circumstances. The bill requires DOC to adopt standards for the use of mental health drugs for county jails that are the same as the standards used by DOC. It also requires the Division of Mental Health and Addiction to create a forensic technical assistance center.

This bill creates the Mental Health Medicaid Quality Advisory Committee as a permanent committee to advise the Drug Utilization Review Board. (The Medicaid Quality Advisory Committee is a temporary committee that expires July 1, 2009.)

This bill also provides for the closing of a juvenile proceeding for the testimony of health care providers and certain other providers. The bill creates a multi-agency task force on workforce development issues relating to individuals with mental health and addictions issues. It also makes a finding that the state needs one mental health facility to be funded by bonding by the Finance Authority.

(The introduced version of this bill was prepared by the Commission on Mental Health.)

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Department of Correction:* This bill requires the DOC to allow a physician to prescribe and administer a drug to an offender that is (1) available under the Medicaid program, (2) administered to control an emotional or mental disorder, and (3) prescribed by a physician and was taken before the time of incarceration to stabilize an emotional or mental disorder. The legislation also defines that

a physician is not required to receive prior authorization before prescribing and administering a drug to treat the condition. This bill can increase DOC's expenditures to the extent that physicians prescribe a drug outside of DOC's current formulary list. DOC estimates that allowing open access to the formulary under the bill will increase expenditures by \$2.6 M in the first year.

DOC is required to adopt rules for county jails to govern the use of drugs for controlling a mental or emotional disorder for confined persons. This provision will increase the workload of DOC in order to adopt the rules and ensure their implementation.

DOC reports holding approximately 4,128 individuals with an Axis I diagnosis. An Axis I diagnosis implies that a mental health condition exists for which the individual is currently receiving treatment and may require treatment later. Of those 4,128 individuals, 3,552 are actively taking a psychotropic medicine. Additionally, DOC reports maintaining 27,401 offenders. Currently, DOC has a contract with Correctional Medical Services (CMS) located in St. Louis, Missouri. CMS provides a psychotropic formulary, as well as all prescription needs, for offenders in Indiana correctional facilities under an approved formulary list. Currently, the total cost of the medication provided by CMS in DOC facilities is \$3.1 M annually. Of that, \$750,000 is spent on psychotropics. DOC estimates that allowing open access to the formulary under the bill will increase expenditures by \$2.6 M in the first year for a total annual expenditure on psychotropic formulary of \$3.35 M.

DOC reports they do not currently provide psychotropic formulary for all offenders determined to have a behavioral or mental health disorder. However, DOC currently budgets to ensure that they are able to provide psychotropic formulary to all individuals with an Axis I diagnosis in case it is necessary to stabilize an individual. DOC also offers a process by which offenders can receive psychotropic drugs outside of the current formulary list if it is in the best interest of the offender. The numbers of individuals that requested and were either approved or denied drugs outside of DOC's current formulary list is not currently available. [As the information becomes available, this information will be updated.]

Mental Health Medicaid Quality Advisory Committee: The legislation also creates the Mental Health Medicaid Quality Advisory Committee, which is intended to advise the Office of Medicaid Policy and Planning (OMPP) and make recommendations regarding preventing prescription fraud. The Committee consists of seven members, of which four are appointed by the Governor. The legislation will extend the Mental Health Medicaid Quality Advisory Committee to be permanent, as it is scheduled to expire by July 1, 2009. FSSA reports that expenditures for this Committee are provided from OMPP operating expenses, and the bill will not increase state expenditures by removing the sunset provision.

Division of Mental Health and Addiction (DMHA): The legislation also creates the Workforce Development Task Force, which is charged to study issues concerning individuals with mental illness. The Task Force consists of 21 members and is staffed by the DMHA. These provisions will increase the workload of DMHA to staff the Task Force.

Forensic Technical Assistance Center: The bill adds the requirement that DMHA create a forensic technical assistance center to support the development of forensic mental health and addiction interventions. This is intended to divert individuals with a mental illness or an instance of substance abuse from the criminal justice system into treatment for their conditions. Diverting individuals that have either a mental health or substance abuse problem into treatment can potentially decrease expenditures in the criminal justice system. Actual expenditure savings would depend on the cost of treatment the state incurs versus the costs of processing these offenders through the criminal justice system.

DMHA estimates that providing the forensic technical assistance center would cost approximately \$400,000 annually. Based on information provided to the Commission on Mental Health in 2007, 15% of DOC offenders have mental illnesses. This statistic was used to extrapolate the number of individuals in the criminal justice system that would be diverted to a forensic technical assistance center. Using figures provided by the *2006 Indiana Judicial Service Report*, of the roughly 290,000 criminal cases filed in 2006 for all felony, misdemeanor, and miscellaneous criminal charges, 15% could be eligible for diversion based on a mental illness.

Bonding Authority: The legislation also adds that the General Assembly finds that the state requires the construction of a mental health facility and provides that the Indiana Finance Authority may provide this facility. Allowing for bonding authority to fund the institution may increase state expenditures, depending on the decisions made by the Indiana Finance Authority with regards to financing secured for a facility. If a public bond is secured for a new facility, it will increase state expenditures to repay the bond's interest and principal.

Background Information: DOC reported that when offenders are received at their facilities and are taking a prescription for an emotional or mental disorder, they are at times switched from their prescription to a similar formulary that DOC uses. The frequency with which this occurs is unknown. DOC reported that negotiations for their formulary list are kept relatively more exclusive than the Medicaid formulary list for cost containment purposes. Currently, when an offender is prescribed a drug that is different than their current prescription, when the new drug is administered, the offender is observed by medical staff so that adjustments can be made as deemed necessary.

Explanation of State Revenues: *Forensic Technical Assistance Center:* To the extent that individuals with mental illnesses or instances of substance abuse are diverted for treatment in state programs that are reimbursable under the Medicaid program, the state may see increases in federal revenue. Actual increases in reimbursement will depend on the number of individuals diverted from the criminal justice system into Medicaid-eligible programming.

Background Information: Currently, 23% of individuals registering for addiction services in the Hoosier Assurance Plan, that is funded by DMHA, are also on Medicaid. Of the individuals on the Hoosier Assurance Plan that also have serious mental illnesses, 65% of these individuals are on Medicaid.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOC, DMHA.

Local Agencies Affected:

Information Sources: Jessica Turner-Stilts, FSSA; Cathy Boggs, DMHA; Tim Brown, DOC.

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